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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,488	11/10/2003	Arndt Birkert		5128

7590 06/15/2005  
Dr. Max Fogiel  
44 Maple Court  
Highland Park, NJ 08904

EXAMINER

JONES, DAVID B

ART UNIT	PAPER NUMBER
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3725

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/705,488

Applicant(s)

Birkert et al.

Examiner

David B. Jones

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) none is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other.

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### **DETAILED ACTION**

1. The disclosure is objected to because of the following informalities: The specification on pages 1 and 2 contains recitations that directly refer to claims that may or may not be present at the time the application is allowed. The specification should stand alone in describing the invention and not refer directly to claim limitations. Appropriate correction is required.
2. The abstract of the disclosure is objected to because it should be limited to one paragraph. Correction is required. See MPEP § 608.01(b).
3. Claims 1-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims as a whole appear to be a product of translation from a foreign document; as such they contain many limitations that render the definiteness of the claims in question. Claims 1-4 are method claims and as such should be set forth in active method steps to perform the desired operation. Claims 5-9 are apparatus claims and as such should set forth each element of the combination and correlate each with respect to each other so as to form a complete and operative device. Further in claim 1, the applicant conditionally claims the invention, i.e., "when...the piece is provided with one or more extra walls or chambers". Further in claim 1, "each end" and "its overall cross section" and "its continuous boundary" lack antecedent basis. In claim 2, "more or less" obviously renders the claim indefinite, failing to clearly set forth the claimed invention and "the inner surface" and "the outer

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surface" lack antecedent basis. The limitation "deep" is unclear, in that the depth of the slot has not been defined with respect to the surrounding structure. Claim 4 is written in a conditional manner ("when") and "additional" is misspelled. Further in claim 4, "the intersections" and "portioning walls" lacks antecedent basis. Claims 5-9 contain like deficiencies to that of claims 1-4 and should be reviewed and amended to be commensurate with U.S. practice.

4. Claims 1-9 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

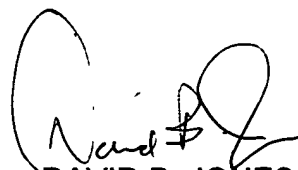
5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David B. Jones whose telephone number is (571) 272-4518.

Any inquiry of general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-3700.

In the event that the Applicant (s) wishes to communicate via Fax number for Group 3700 is (703) 872-9306.

wahp

A handwritten signature in black ink, appearing to read "David B. Jones", is positioned above the printed name.

DAVID B. JONES  
PRIMARY PATENT EXAMINER  
ART UNIT 3725